

SENATE BILL NO. 201

INTRODUCED BY L. NELSON

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN COOPERATIVE PURCHASING CONTRACTS FROM HAVING TO ADVERTISE FOR BIDS; AND AMENDING SECTION 20-9-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-204, MCA, is amended to read:

"20-9-204. Conflicts of interests, letting contracts, and calling for bids. (1) It is unlawful for a trustee

to:

(a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member; or

(b) be employed in any capacity by the trustee's own school district.

(2) For the purposes of subsection (1):

(a) "pecuniary interest" does not include holding an interest of 10% or less in a corporation;

(b) "contract" does not include:

(i) merchandise sold to the highest bidder at public auctions;

(ii) investments or deposits in financial institutions that are in the business of loaning or receiving money when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

(iii) contracts for professional services, other than salaried services, or for maintenance or repair services or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered.

(3) Except for district needs that must be met because of an unforeseen emergency, as defined in 20-3-322(5), or as provided in subsection (4) of this section, whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$25,000, the work done or the purchase made must be by contract. Each contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement must be published in the newspaper



1 that will give notice to the largest number of people of the district as determined by the trustees. The
2 advertisement must be made once each week for 2 consecutive weeks, and the second publication must be
3 made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this
4 section is void. The bidding requirements applicable to services performed for the benefit of the district under
5 this section do not apply to:

6 (a) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

7 (b) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

8 (c) an attorney;

9 (d) a consulting actuary;

10 (e) a private investigator licensed by any jurisdiction;

11 (f) a claims adjuster; or

12 (g) an accountant licensed under Title 37, chapter 50.

13 (4) (a) A district may enter into a cooperative purchasing contract for the procurement of supplies or
14 services with one or more districts. The award of a contract to a successful bidder must comply with the
15 requirements of subsection (5). ~~The~~ Except as provided in subsection (4)(b), the request for bids must be
16 advertised in a daily newspaper of general circulation in each county in which a district participating in the
17 cooperative purchasing contract is located. The advertisement must be made once each week for 2 consecutive
18 weeks, and the second publication must be made not less than 5 days or more than 12 days before
19 consideration of bids.

20 (b) The bidding requirements of subsection (4)(a) do not apply when the district is purchasing through
21 federal supply schedules of the United States general services administration, joint or multiparty contracts
22 between public procurement units, or open-ended public procurement unit contracts that are made available to
23 school districts through cooperative purchasing pools.

24 (5) Whenever bidding is required, the contract must be awarded to the lowest responsible bidder,
25 except that all bids may be rejected.

26 (6) This section may not require the board of trustees to let a contract for any routine and regularly
27 performed maintenance or repair project or service that can be accomplished by district staff whose regular
28 employment with the school district is related to the routine performance of maintenance for the district."

29 - END -